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10/812,137	03/29/2004	Simon J. Porter	H0002969 DIV 1 (4760)	2160

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EXAMINER

SCHATZ, CHRISTOPHER

ART UNIT PAPER NUMBER

1733

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,137

Applicant(s)

PORTER, SIMON J.

Examiner

Christopher T. Schatz

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-37 and 43-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-37 and 43-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The amendment filed on December 12, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Applicant claims that the antifog composition is coated onto the surface of the sealant film that is bonded to the nylon film.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 37 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim requires that the antifog composition be coated on the second surface of the sealant film. Based on the wording of claim 43, this is surface of the sealant film that is bonded to the nylon

Art Unit: 1733

film. Nowhere in the specification does applicant contemplate that the antifog composition can be coated onto the side of the sealant film that is bonded to the nylon film. In fact, applicant states throughout the specification that antifog composition must be coated onto the side of the sealant film that is not bonded to the nylon film.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 43, 33, 34, 36, 37, 45, 47, 48, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coyle et al. in view of the admitted prior art.

Coyle et al. discloses a process for forming a multilayered film, said process comprising: providing a sealant film (polyethylene) having first and second surfaces; providing a nylon film having first and second surfaces; adhering said second surface of said sealant film to said first surface of said nylon film; adhering a protective film to said second surface of said nylon film, said protective film being selected from the group consisting of polyvinylidene chloride, polyurethanes, amine modified polyurethanes, epoxies, polyesters, acrylics, polyols and combinations thereof; and winding said multilayered film into a roll, wherein said protective film of one layer of said roll is in contact with said sealant layer of an adjacent layer of said roll (figures 3 and 4, column 5, line 31 – column 6, line 10). The reference is silent as to a method

Art Unit: 1733

wherein an anti-fog composition is either incorporated therein or coated on the first surface of the sealant film. The admitted prior art discloses a method of adhering a sealant film to a nylon film, and further discloses that in such a method is well known in the art to blend an antifog composition with the polyethylene sealant film, or coat an antifog composition onto said sealant film (page 2, lines 9-19). The use of an antifog composition is advantageous because, as disclosed by the prior art, said antifog composition allows the product packaged by the multilayered film to be visible. Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to either blend an antifog composition with a sealant film or coat an antifog composition onto said sealant film as taught by the admitted prior art above in the process of forming a multilayered film as set forth above by Coyle et al. Although the Coyle et al. reference does not explicitly state that the protective film prevents migration of the antifog composition from the sealant layer to the nylon layer while the laminate is rolled up, examiner asserts that one of ordinary skill in the art would have readily understood that the protective film (saran) of Coyle et al. prevents migration of the antifog composition, since the protective is made from the same material used by applicant (polyvinylidene chloride).

As to claim 33, the admitted prior art discloses that it is well known in the art to coextrude two layers to form multilayered films (page 15, lines 1-2). As to claim 33, the admitted prior art discloses that it is well known in the art to laminate two layers together to form multilayered films (page 15, lines 6). As such, one of ordinary skill in the art would have understood that that nylon film and the sealant film could be coextruded or laminated together via an adhesive. As to claims 36 and 37, the admitted prior discloses that it is well known to coat a surface of a sealant film with an anti-fog component, or incorporate said antifog component

Art Unit: 1733

into the sealant film as discussed above. As to claim 45, Coyle et al. discloses a method wherein the protective comprises polyvinylidene chloride (saran). As to claim 47, Coyle et al. discloses a method wherein the sealant film comprises polyethylene (figure 3). As to claim 48, Coyle et al. discloses a method wherein the nylon comprises nylon 6 (column 3, lines 55-67). As to claim 50, Coyle et al. discloses a method wherein the multilayered film is heat shrinkable (column 1, lines 56-63).

6. Claims 35, 47, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coyle et al. and the admitted prior art as applied above, and in further view of Brazier et al. '427 (newly cited).

Coyle et al. and the admitted prior art disclose a method as stated above, but the references are silent as to a method biaxially orienting the nylon film. Brazier et al. discloses a method forming a multilayered laminate wherein a polyethylene sealant film is adhered to a biaxially oriented nylon film (example 10), and a protective polyvinylidene chloride film is adhered to the nylon film (column 1, line 50-57, column 2, line 28 – column 3, line 4). Biaxially oriented nylon film is advantageous because, as disclosed by Brazier et al., use of said film produces a firmly adhered product with high heat seal strength (column 6, lines 9-13). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to use of a biaxially oriented nylon film as taught by Brazier et al. in the process for forming a multilayered film as set forth above by Coyle et al. and the admitted prior art.

As to claims 47 and 54, Coyle et al. discloses a method of manufacturing a multilayered film wherein said film consists essentially of a sealant film, a nylon film, and a protective film. Manufacturing a multilayered film wherein said film consists essentially of a sealant film, a

Art Unit: 1733

nylon film, and a protective film advantageous because, as disclosed by Brazier et al., doing so simplifies the construction of the multilayered and reduces the number of processing steps (column 2, lines 2-22). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method of the Coyle et al. such that a multilayered film wherein said film consists essentially of a sealant film, a nylon film, and a protective film is produced in order to reduce the number of processing steps as taught by Brazier et al. above.

7. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coyle et al. and the admitted prior art as applied above, and in further view of Ossian '852 (of record).

Coyle et al. and the admitted prior art disclose a method as stated above, but the references are silent as to a method wherein said nylon film comprises a first nylon layer, and ethylene vinyl alcohol layer, and a second nylon layer. Ossian discloses a method of forming a multilayered film comprising at least a nylon film and a sealant film, wherein said at least one nylon comprises an EVOH layer between two nylon layers (column 3, line 66 – column 4, line 3, figure 3). A layered film with the above described structure is advantageous because, as disclosed by Ossian et al. the EVOH layer provides excellent oxygen barrier properties, and the nylon layer allows moisture to escape from the EVOH, thus preserving the oxygen barrier properties of the EVOH (column 2, line 40 – column 3, line 19). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to replace the nylon film of Coyle et al. with an EVOH layer between two nylon layers as taught by Ossian above to increase oxygen barrier properties of the multilayered film disclosed by Coyle et al. and the admitted prior art.

Art Unit: 1733

8. Claims 44 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coyle et al. and the admitted prior art, as applied to claim 43 above, and further in view of Bauer et al. '358.

Coyle et al. and the admitted prior art disclose a method as discussed in claim 43 above, but the references are silent as to a method wherein the protective film comprises polyurethane. Bauer et al. discloses a method of forming a multilayered film, wherein the "protective layer" (or the outer layer 14), can be comprises of either polyvinylidene chloride or polyurethane. As such, examiner asserts at the time of the invention it would have been obvious to a person of ordinary skill in the art to replace the polyvinylidene chloride layer of Coyle et al. with polyurethane because the compounds are well known alternatives in the art as taught by Bauer et al. above. Claim 51 is a combination of claim 43 and 44, and thus the combination of references render the claim obvious for the reasons discussed above.

9. Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coyle et al., the admitted prior art, and Bauer as applied above, and in further view of Ossian.

Coyle et al., the admitted prior art, and Bauer disclose a method as stated above, but the references are silent as to a method wherein said nylon film comprises a first nylon layer, and ethylene vinyl alcohol layer, and a second nylon layer. Ossian discloses a method of forming a multilayered film comprising at least a nylon film and a sealant film, wherein said at least one nylon comprises an EVOH layer between two nylon layers (column 3, line 66 – column 4, line 3, figure 3). A layered film with the above described structure is advantageous because, as disclosed by Ossian et al. the EVOH layer provides excellent oxygen barrier properties, and the nylon layer allows moisture to escape from the EVOH, thus preserving the oxygen barrier

Art Unit: 1733

properties of the EVOH (column 2, line 40 – column 3, line 19). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to replace the nylon film of Coyle et al. with an EVOH layer between two nylon layers as taught by Ossian above to increase oxygen barrier properties of the multilayered film disclosed by Coyle et al., the admitted prior art, and Bauer et al.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

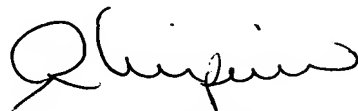
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher T. Schatz



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